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Meeting of States Parties

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Consideration of budgetary matters of the International Tribunal for the Law of the Sea

Report on budgetary matters for the financial period 2015-2016

Presented by the Registrar of the International Tribunal for the Law of the Sea

I. Budget performance report for 2015-2016

1. In June 2014, at their twenty-fourth meeting, the Meeting of States Parties approved the amount of €18,886,200 as the budget of the Tribunal for the financial period 2015-2016 (SPLOS/275, para. 1). In addition, the Meeting requested the Registrar to explore ways of making additional savings in the budget of the Tribunal, keeping in mind the need for the Tribunal to function effectively, and to report on this matter at the twenty-fifth meeting (ibid., para. 4). In accordance with that request, additional savings in the amount of €68,600 were made. On that basis, the budget of the Tribunal for 2015-2016 was finally determined to be €18,817,600. This amount included a provision of €2,501,300 under part C of the budget (case-related costs) in order to cover the costs relating to the consideration of case No. 21 (*Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission*) and to enable the Tribunal to deal with two urgent proceedings in 2015-2016. The Meeting also decided that a floor rate of 0.01 per cent and a ceiling rate of 22 per cent would be used in establishing the rate of assessment for States parties for the budget of the Tribunal for 2015-2016 (ibid., para. 6).

2. As shown in the budget performance report for 2015-2016 (see annex), the total expenditure for that period stands at €18,662,719, representing 99.18 per cent of the total appropriations (€18,817,600). This performance can be explained by the optimum use of resources in a period of increased judicial workload. It may be noted that, during the reporting period, the Tribunal continued its consideration of case No. 21 and delivered its advisory opinion on 2 April 2015.

3. On 27 February 2015, Côte d'Ivoire submitted to the Special Chamber a request for the prescription of provisional measures in case No. 23 (*Dispute concerning delimitation of the maritime boundary between Ghana and Côte d'Ivoire*

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in the Atlantic Ocean (Ghana/Côte d'Ivoire)) in accordance with article 290, paragraph 1, of the United Nations Convention on the Law of the Sea. The Special Chamber delivered its order on 25 April 2015. On 21 July 2015, Italy submitted to the Tribunal a request for the prescription of provisional measures under article 290, paragraph 5, of the Convention in respect of a dispute with India concerning the *Enrica Lexie* incident. The case was entered in the Tribunal's list of cases as case No. 24 (*The "Enrica Lexie" Incident (Italy v. India), provisional measures*). The Tribunal issued its order on the case on 24 August 2015. On 17 December 2015, Panama filed with the Tribunal an application in a dispute with Italy regarding the arrest and detention of the motor vessel (M/V) *Norstar*, a Panama-flagged vessel. The case was entered in the Tribunal's list of cases as case No. 25 (*The M/V "Norstar" Case (Panama* v. *Italy)*). On 10 March 2016, Italy filed with the Tribunal preliminary objections to the jurisdiction of the Tribunal and the admissibility of the claim by Panama. The public hearing on the preliminary objections of Italy was held from 20 to 22 September 2016, and the Tribunal delivered its judgment on 4 November 2016.

4. Under part C (case-related costs), section 11 (judges), savings amounted to €278,156. These savings, which were achieved under the budget lines "Special allowances" and "Travel to meetings, including judges ad hoc", were largely due to the submission of case No. 23 to a special chamber of the Tribunal consisting of five members, while the budget appropriations had been based on the submission of an urgent case to the full Tribunal. Further savings were due to a reduction in the daily subsistence allowance for Hamburg, Germany, from €322 to €277, as at 1 November 2014, while the budget had been based on the daily subsistence allowance rate of €322, the applicable rate in March 2014. Finally, savings resulted from the scheduling of judicial meetings of the Tribunal in conjunction with the regular meetings of the Tribunal on non-judicial matters.

5. The budget line "Compensation to judges ad hoc" shows a negative balance of €12,972 since the budget provided for judges ad hoc during two urgent cases only, while such judges were appointed to three cases (cases Nos. 23-25).

6. Under part C, section 12 (staff costs), the budget line "Temporary assistance for meetings" shows an overexpenditure of €213,726, which is mainly due to a volume of translation work much higher than anticipated, in particular in relation to case No. 23, and to a budget calculated on the basis of three cases, while the Tribunal dealt with four cases during the reporting period. That overexpenditure was absorbed by making transfers between appropriation sections under financial regulation 4.6, in accordance with the authorization given to the Registrar at the twenty-sixth meeting of the States Parties (SPLOS/301, para. 5). The total balance under part C stands at €65,508.

7. Under part A (recurrent expenditure), section 1 (judges), the budget line "Annual allowances" shows a negative balance in the amount of €68,172. This overexpenditure is mainly due to the fact that two judges whose terms of office ended on 30 September 2014 continued to sit in case No. 21, in accordance with article 17 of the rules of the Tribunal, until 2 April 2015. Those judges received an annual allowance during that period, while the payment of their pension was suspended. Another factor that explains the overexpenditure is the slight increase in the level of remuneration of judges, which was revised twice during the reporting period, in 2015 and in 2016. The overexpenditure under the budget line "Annual allowances" was fully absorbed by the redeployment of appropriations within part A, section 1.

8. Under the same section, savings amounting to €116,333 were achieved under the budget line "Special allowances". The savings were mainly due to the decrease

in the daily subsistence allowance for Hamburg from €322 to €277. The section shows a final balance of €84,547.

9. Under part A, section 2 (judges' pension scheme), the budget line "Pension in payment" shows a negative balance of €295,265. The pensions of the former members of the Tribunal and of surviving spouses are fixed in United States dollars. Accordingly, the 23.54 per cent appreciation of the United States dollar against the euro had a direct effect on performance. In addition, a member of the Tribunal resigned in May 2015, which resulted in an additional pension obligation for the period from May 2015 to December 2016. This additional pension obligation, in the amount of €100,221, was not provided for in the 2015-2016 budget. The overexpenditure was fully absorbed by the savings under sections 1 (judges), 3 (staff costs) and 7 (operating expenditure).

10. Under part A, section 3 (staff costs), savings amounting to €197,077 were made. They were achieved mainly under the budget line "Established posts" owing to vacant positions in the Registry during the reporting period.

11. Part A, section 4 (representation allowance) shows a negative balance of €2,617. This overexpenditure is entirely due to the depreciation of the euro against the United States dollar throughout the budgetary period. It is proposed that this overrun be financed by the savings under part A, section 5 (official travel), which amount to €12,318.

II. Report on action taken pursuant to the Financial Regulations and Rules of the Tribunal

A. Surrender of cash surplus from the financial period 2013-2014

12. Pursuant to the information communicated to the Meeting of States Parties (see SPLOS/295, paras. 8 and 9), an amount of €1,837,669 was surrendered to the States parties and deducted from their contributions for 2017 and for earlier financial periods, where applicable, in accordance with regulation 4 of the Financial Regulations and Rules of the Tribunal (see SPLOS/301, para. 3).

B. Investment of funds of the Tribunal

13. In respect of the investment of funds of the Tribunal, regulation 9 of the Financial Regulations and Rules of the Tribunal stipulates the following:

> 9.1 The Registrar may make prudent short-term investments of moneys not needed for immediate requirements and shall inform the Tribunal and the Meeting of States Parties periodically of such investments.
>
> ...
>
> 9.2 Income derived from investments shall be credited to miscellaneous income or as provided in the rules relating to each fund or account.

14. In 2015 and 2016, the Tribunal's funds were kept in bank accounts with JP Morgan and Deutsche Bank in United States dollars and euros. Interest was gained from short-term investments of less than 12 months, in accordance with rule 109.1 of the Financial Regulations and Rules of the Tribunal. The funds yielded interest amounting to €2,401 during 2015 and 2016. This earned interest has been credited as miscellaneous income, in accordance with regulation 9.2.

C. International Tribunal for the Law of the Sea Trust Fund

15. At its twenty-eighth session, in September 2009, the Tribunal approved the Registrar's proposal to establish a trust fund for the law of the sea in accordance with the Financial Regulations and Rules of the Tribunal. The Registrar established the International Tribunal for the Law of the Sea Trust Fund with Deutsche Bank in Hamburg. The Trust Fund is intended to promote the advancement of human resources in developing countries in the law of the sea affairs and maritime affairs in general. Contributions to the Trust Fund are used to give financial assistance for the participation of applicants from developing countries in the Tribunal's internship programme and the summer academy.

16. The first contribution to the Trust Fund, in the amount of €25,000, was made in 2010 by Korwind, a Hamburg-based company from the Republic of Korea working in the field of renewable energy. Subsequent contributions from the Korea Maritime Institute were made in October 2011 (€15,000), December 2012 (€15,000), October 2013 (€15,000), August 2014 (€20,000), December 2014 (€15,000), July 2015 (€20,000), October 2015 (€11,000), December 2015 (€15,000) and December 2016 (€15,000). Since July 2012, the Trust Fund has been used to support the Tribunal's internship programme and provide financial assistance to interns from developing countries. The Trust Fund was also used to finance two regional workshops held in Nairobi in August 2014 and Bali, Indonesia, in August 2015, respectively. The performance of the Trust Fund as at 31 December 2016 is summarized below (in euros).

Contributions	61 000
Loss on exchange	(77)
Total income	**60 923**
Expenditure on participants and authorized activities	(76 320)
Bank charges	(877)
Total expenditure	**(77 197)**
Excess of income over expenditure	**(16 274)**
Reserves from prior periods	31 915
Available balance	**15 641**

D. Nippon Foundation trust fund

17. In March 2007, the Tribunal and the Nippon Foundation signed the Nippon Foundation grant agreement. Pursuant to the agreement, the Nippon Foundation agreed to contribute an amount of €200,000 to the Nippon Foundation-International Tribunal for the Law of the Sea capacity-building and training programme on dispute settlement under the Convention on the Law of the Sea.

18. In accordance with regulation 6.5 of the Financial Regulations and Rules of the Tribunal, a trust fund was subsequently established and a special euro bank account named "Nippon Foundation Grant" was set up with Deutsche Bank. The purpose of the grant is to finance the expenses of participants from developing countries in the aforementioned programme.

19. A second contribution, in the amount of €200,000, was made to the Tribunal in March 2008, a third, in the same amount, was made in March 2009, and seven more contributions in the amount of €230,000 each were made in March 2010, March 2011, March 2012, March 2013, March 2014, March 2015 and March 2016. The performance of the Nippon Foundation Grant as at 31 December 2016 is reported to the Meeting of States Parties in accordance with regulation 6.5 as follows (in euros):

Grants from the Nippon Foundation	460 000
Gain on exchange	54
Total income	**460 054**
Expenditure on participants and authorized activities	(374 039)
Bank charges	(1 050)
Non-refundable tax	(1 740)
Total expenditure	**(376 829)**
Excess of income over expenditure	**83 225**
Accounts receivable or payable and prepaid expenses	(16 846)
Reserves from prior periods	267 224
Available balance	**333 603**

E. China Institute of International Studies trust fund

20. Following the signing of a memorandum of understanding between the Tribunal and the China Institute of International Studies (CIIS) on 3 May 2012, a trust fund, designated as the CIIS Grant, was set up to support the Tribunal's internship programme, the summer academy of the International Foundation for the Law of the Sea and other projects, including regional workshops. A contribution from the Institute to the Grant in the amount of €100,000 was received on 20 June 2012 and used to support the internship programme and the summer academy. As at 31 December 2016, the balance stood at €15,542, which is reserved for the organization of a regional workshop in West Africa.

F. Twentieth anniversary trust fund

21. At its fortieth meeting, in October 2015, the Tribunal decided to establish a trust fund to finance events and activities for the celebration of its twentieth anniversary and disseminate information on its role in the settlement of disputes relating to the law of the sea. In total, four contributions were received in 2016. Two contributions of €25,000 each were received from the Korea Maritime Institute in May 2016 and July 2016, respectively, a contribution of €109,443 was received from the Government of Japan in July 2016, and a contribution of €7,000 was received from the Government of Germany in December 2016. The contributions were used to finance activities to celebrate the anniversary of the Tribunal in New York during the twenty-sixth meeting of the States parties, and in Hamburg.

22. A round table on the role of the Tribunal in the settlement of disputes related to the law of the sea was held in New York on 23 June 2016, during the twenty-sixth meeting. It was organized with the financial contribution of the Korea Maritime Institute.

23. A solemn ceremony to mark the twentieth anniversary of the Tribunal took place on 7 October 2016 in the City Hall of Hamburg, during which statements were made by the Secretary-General of the United Nations, the President of the Federal Republic of Germany, Joachim Gauck, the First Mayor and President of the Senate of the Free and Hanseatic City of Hamburg, Olaf Scholz, and the President of the Tribunal, Judge Vladimir Golitsyn. The ceremony was organized with the support of the Federal Republic of Germany and the Free and Hanseatic City of Hamburg and attended by more than 500 guests.

24. The ceremony was preceded by a two-day international symposium on the contribution of the Tribunal to the rule of law and a visit by the Secretary-General to the Tribunal. More than 150 participants, including judges of the Tribunal, the International Court of Justice and other judicial institutions, academics, lawyers and counsel who had appeared before international courts and tribunals, attended the symposium. The symposium was made possible with the financial support of the Government of Japan. A further academic event to commemorate the anniversary, devoted to the role of the Tribunal in addressing new challenges in international law of the sea, will take place in Hamburg on 18 March 2017. The performance of the twentieth anniversary trust fund is summarized below (in euros).

Contributions	166 443
Gain on exchange	19
Total income	**166 462**
Expenditure on authorized activities	(138 131)
Bank charges	(179)
Non-refundable tax	(105)
Total expenditure	**(138 415)**
Excess of income over expenditure (2016)	**28 047**

Annex

Budget performance report for 2015-2016 (in euros)

Part/ Section	*Objects of expenditure*	*2015-2016 approved budget*	*2015 expenditure (as at 31 December 2015)*	*2016 expenditure (as at 31 December 2016)*	*2015-2016 total expenditure (as at 31 December 2016)*	*Balance*	*Total expenditure/ approved budget (percentage)*
A	**Recurrent expenditure**						
1	**Judges**	**4 246 100**	**2 067 246**	**2 094 307**	**4 161 553**	**84 547**	
1.1	Annual allowances	3 008 300	1 544 732	1 531 740	3 076 472	(68 172)	102.27
1.2	Special allowances	917 900	381 743	419 824	801 567	116 333	87.33
1.3	Travel to sessions	274 600	132 906	134 368	267 274	7 326	97.33
1.4	Common costs	45 300	7 865	8 375	16 240	29 060	35.85
2	**Judges' pension scheme**	**967 800**	**614 392**	**648 673**	**1 263 065**	**(295 265)**	
2.1	Pension in payment	967 800	614 392	648 673	1 263 065	(295 265)	130.51
3	**Staff costs**	**7 533 900**	**3 518 622**	**3 818 201**	**7 336 823**	**197 077**	
3.1	Established posts	5 085 200	2 402 424	2 496 441	4 898 865	186 335	96.34
3.2	Common staff costs	2 045 000	945 222	1 098 205	2 043 427	1 573	99.92
3.3	Overtime	25 000	11 436	13 315	24 751	249	99.00
3.4	Temporary assistance for meetings	197 900	97 482	98 988	196 470	1 430	99.28
3.5	General temporary assistance	107 900	35 293	69 493	104 786	3 114	97.11
3.6	Training	72 900	26 765	41 759	68 524	4 376	94.00
4	**Representation allowance**	**11 100**	**6 867**	**6 850**	**13 717**	**(2 617)**	**123.58**
5	**Official travel**	**180 300**	**78 908**	**89 074**	**167 982**	**12 318**	**93.17**
6	**Hospitality**	**14 300**	**8 329**	**5 706**	**14 035**	**265**	**98.15**
7	**Operating expenditure**	**2 888 000**	**1 262 164**	**1 537 538**	**2 799 702**	**88 298**	
7.1	Maintenance of premises (including security)	2 159 000	1 003 439	1 153 144	2 156 583	2 417	99.89
7.2	Rental and maintenance of equipment	355 600	135 303	191 217	326 520	29 080	91.82
7.3	Communications	189 200	63 283	78 829	142 112	47 088	75.11
7.4	Miscellaneous services and charges (including bank charges)	41 000	14 709	16 630	31 339	9 661	76.44
7.5	Supplies and materials	122 400	45 430	76 918	122 348	52	99.96
7.6	Special services (external audit)	20 800	0	20 800	20 800	0	100.00
8	**Library and related costs**	**320 000**	**136 866**	**182 052**	**318 918**	**1 082**	
8.1	Library (procurement of books and publications)	242 000	111 681	129 926	241 607	393	99.84
8.2	External printing and binding	78 000	25 185	52 126	77 311	689	99.12
B	**Non-recurrent expenditure**						
9	**Furniture and equipment**						
9.1	Purchase of equipment	154 800	22 066	129 069	151 135	3 665	97.63

Part/ Section	*Objects of expenditure*	*2015-2016 approved budget*	*2015 expenditure (as at 31 December 2015)*	*2016 expenditure (as at 31 December 2016)*	*2015-2016 total expenditure (as at 31 December 2016)*	*Balance*	*Total expenditure/ approved budget (percentage)*
C	**Case-related costs**	**2 501 300**	**1 723 107**	**712 685**	**2 435 792**	**65 508**	
11	**Judges**	**1 889 700**	**1 092 300**	**519 244**	**1 611 544**	**278 156**	
11.1	Special allowances	1 468 500	855 306	421 197	1 276 503	191 997	86.93
11.2	Compensation to judges ad hoc	110 800	67 755	56 017	123 772	(12 972)	111.71
11.3	Travel to meetings (including judges ad hoc)	310 400	169 239	42 030	211 269	99 131	68.06
12	**Staff costs**	**611 600**	**630 807**	**193 441**	**824 248**	**(212 648)**	
12.1	Temporary assistance for meetings	577 800	603 560	187 966	791 526	(213 725)	136.99
12.2	Overtime	33 800	27 247	5 475	32 722	1 078	96.81
	Total	**18 817 600**	**9 438 155**	**9 224 155**	**18 662 719**	**154 881**	**99.18**